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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Larry Eugene Varvel, ) No. CV-11-0278-PHX-FJM  
Petitioner, )  
vs. )  
Charles L. Ryan; Attorney General of the )  
State of Arizona, )  
Respondents. )

**ORDER**

The court has before it petitioner's amended petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 (doc. 6), respondents' response (doc. 13), and the Report and Recommendation of the United States Magistrate Judge (doc. 14). No objections to the Report and Recommendation were filed and the time for doing so has expired.

The Magistrate Judge concluded that petitioner failed to properly exhaust his claims in state court, the claims were procedurally defaulted, and no showing of a miscarriage of justice or cause and actual prejudice were presented. Accordingly, the Magistrate Judge recommended denying the petition with prejudice.

Pursuant to Rule 8(b), Rules Governing § 2254 Cases, we accept the recommended decision of the United States Magistrate Judge. Therefore, **IT IS ORDERED DENYING** the amended petition for writ of habeas corpus (doc. 6).

Because dismissal of the petition is justified by a procedural bar and jurists of reason would not find the ruling debatable, **IT IS FURTHER ORDERED DENYING** a certificate of appealability and leave to proceed *in forma pauperis* on appeal.

4 DATED this 18<sup>th</sup> day of November, 2011.

Frederick J. Martone  
Frederick J. Martone  
United States District Judge